

HOUSE No. 680

By Mr. Honan of Boston, petition of John F. Quinn and others relative to intimidation by criminal street gangs under the law regulating crimes against public justice. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

John F. Quinn Robert M. Koczera
Antonio F.D. Cabral

In the Year Two Thousand and Five.

AN ACT RELATIVE TO STREET GANGS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Chapter 269 of the General Laws is hereby amended by
- 2 inserting after section 19 the following section:—
- 3 Section 20. (a) As used in this section, the following words
- 4 shall have the following meanings:—
- 5 “Criminal street gang”, any ongoing organization, association,
- 6 or group of three or more persons, whether formal or informal,
- 7 which has as one of its primary activities the commission of one
- 8 or more of the criminal acts enumerated in clauses (1) to (9)
- 9 herein, and which has a common name; or common identifying
- 10 sign, symbol, or tattoo; or common leadership; or claims a geo-
- 11 graphic territory or criminal enterprise; and whose members indi-
- 12 vidually or collectively engage in or have engaged in a pattern of
- 13 criminal gang activity.
- 14 “Pattern of criminal gang activity”, the commission, attempted
- 15 commission, or solicitation of the commission by any member or
- 16 members of a criminal street gang of any of the following
- 17 offenses:
- 18 (1) Murder or manslaughter.

- 19 (2) Robbery, armed or unarmed.
- 20 (3) Assault by means of a dangerous weapon.
- 21 (4) Any violation of M.G.L. c. 94C.
- 22 (5) Discharging a firearm as defined in section 129 of
23 chapter 140 at any person, occupied dwelling, occupied building,
24 or occupied motor vehicle.
- 25 (6) Arson.
- 26 (7) The intimidation of witnesses and/or victims.
- 27 (8) Attempting to cause, or causing another to become, or
28 remain, a member of a criminal gang by force, threat, or duress.
- 29 (9) The possession of a firearm in violation of section of
30 Chapter 269 of the General Laws.
- 31 (b) Any person who actively participates in any criminal street
32 gang with knowledge that its members engage in or have engaged
33 in a pattern of criminal gang activity, and who knowingly pro-
34 motes, furthers, or assists in any felonious criminal conduct by a
35 member or members of said gang shall be punished by imprison-
36 ment in the house of correction for a period of not more than two
37 years, or by imprisonment in the state prison for not more than
38 five years.
- 39 (c) Any person who is convicted of a crime which is committed
40 for the benefit of, at the direction of, or with the intent to promote,
41 further, or assist in any criminal conduct by criminal street gang
42 members, shall be punished as follows:
- 43 (1) Except as provided in subparagraph (2) herein, any person
44 who violates this section in the commission, or attempted com-
45 mission of a felony, or the commission of a misdemeanor, shall,
46 upon conviction of that offense, in addition to and consecutive to
47 the punishment prescribed for that offense, be punished by an
48 additional term of not less than one year nor more than three
49 years. The court shall consider circumstances in aggravation or
50 mitigation in imposing this sentence.
- 51 (2) Any person who violates this section in the commission of a
52 felony punishable by imprisonment in the state prison for life,
53 shall not be eligible for parole until such person has served a min-
54 imum of fifteen calendar years.